
Finance Committee

HB 1515

Brief Description: Allowing owners of property enrolled in a current use property tax program to transfer the property between one another or to withdraw the property on the death of the owner, without penalty.

Sponsors: Representatives P. Sullivan, Rodne, Simpson, Priest, Jarrett, Ericks and Morrell.

Brief Summary of Bill

- Allows land that is enrolled in any current use program to be reclassified within any other current use program, without triggering additional or compensating tax, interest or penalties.
- Expands the exception to the requirement to pay additional or compensating tax, interest, and penalty for land sold within two years of the death of the owner so as to include land enrolled at any point in time in the current use programs, and not just lands enrolled continuously in current use programs since 1993.
- Removes the requirement for a land owner to provide the county assessor with a two-year notice of intent to withdraw from the open space, farm and agricultural, or timber land programs after the initial 10 year participation period.

Hearing Date: 2/13/07

Staff: Mark Matteson (786-7145).

Background:

All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The state Constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. Two current use programs currently implement this constitutional exception to fair market value: the "forest land" program and the "open space" program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Forest Land Program. Forest lands are subject to property tax at current use based on a statutory schedule, adjusted each year by Department of Revenue (DOR) rule. Standing timber is exempt from property tax and harvested timber is then subject to a timber excise tax at 5 percent of harvested value. To qualify for current use valuation under the forest land program, the land must be 20 acres or more and be used primarily for growing and harvesting timber. To receive designation as forest land, the owner must apply to the assessor, with information about the current management of the land and an intent to continue growing and harvesting timber.

Land may be removed from forest land designation under certain conditions. In general, land that is removed is subject to a compensating tax equal to the tax benefit received in the most recent year multiplied by the number of years the land was designated, not to exceed nine. An exception to the compensating tax is allowed under certain conditions. One of these conditions is the sale or transfer of land within two years of the death of the owner of at least 50 percent interest in the land, as long as the land has been in a current use program continuously since 1993.

Open Space Program. Within the open space program, property may be valued under one of three current use classifications: farm and agricultural land; timber land; and open space land.

Land qualifies for the open space land program if: the land is zoned accordingly under a comprehensive land use plan adopted by the city or county in which the land is located; the preservation of the land in its current use would promote conservation, protect natural resources, enhance recreation opportunities, preserve historic sites, preserve visual quality along major public rights of way or vistas, or retain natural tracts of one acre or more, open to the public, in urban settings; or the land qualifies as farm and agricultural conservation land.

Land qualifies for the farm and agricultural land program if: the land is 20 or more acres and either devoted primarily to farming purposes or enrolled in the federal conservation reserve program; the land is less than 20 acres, devoted primarily to farming purposes, and meets certain income producing requirements; the use of the land is incidental to and compatible with agricultural purposes; or the land is the site of a farmer's principal residence or housing for employees.

Land qualifies for the open space timber land program if the land is at least five or more acres or multiple parcels of land that are contiguous and in which there are at least five acres devoted primarily to the growth and harvest of timber for commercial purposes.

To enroll in one of the open space programs, an application is required. The owner seeking farm and agricultural land classification must apply to the county assessor. An owner seeking open space or timber land classification must apply to a granting authority that consists of a subset of the county (and city, if applicable) legislative authority. By DOR rule, approvals are transmitted through an agreement, known as the "open space taxation agreement." Denials of farm and agricultural land applications may be appealed to county boards of equalization. Denials of open space or timber land applications may be appealed only through the superior court of the county where the application was filed.

Land classified under the open space program must remain under the program for at least 10 years following initial classification. An exception within the 10 year period allows lands to be transferred between current use programs in certain instances, as described below. If the owner wishes to withdraw the land from current use after 10 years, he/she must notify the assessor two

years prior to having the land withdrawn. The withdrawal then triggers the requirement to pay additional tax and interest. Additional tax is calculated for the prior seven year period, based on the difference between the current use valuation during the seven year period and the true and fair (i.e., market) valuation during the period. Interest is calculated at 12 percent per year, the same as for delinquent property taxes. The land is revalued to market value as of January 1 of the year of removal.

Lands must be removed from the open space programs if the use no longer qualifies under the program; the land is withdrawn before the expiration of the initial 10 year period; or a sale of the property is made and the new owner does not sign a notice of intent to continue within the open space program. Removal triggers payment of additional tax, interest and penalty. Additional taxes and interest are assessed as described above. The penalty is 20 percent of the additional tax and interest. An owner may appeal the removal of classification to the county board of equalization.

An exception to the requirement to pay additional tax, interest, and penalties is provided for a number of circumstances. One of these circumstances is the sale or transfer of land within two years of the death of the owner of at least 50 percent interest in the land, as long as the land has been in a current use program continuously since 1993.

Reclassification Authority. Land that has been classified within a current use program may be reclassified to another current use program without triggering additional taxes, interest, or penalties, under certain circumstance. Allowable reclassifications are as follows:

- farm and agricultural land to timber land, open space land, or forest land;
- timber land to farm and agricultural land, open space land or forest land;
- forest land to farm and agricultural land, open space land or timber land; and
- open space land to farm and agricultural land, but only if the land had been previously classified as farm and agricultural land.

Reclassification approvals are acted on in the same manner as approvals for initial classification.

Summary of Bill:

Lands that are enrolled in any of the current use programs may be reclassified under any other current use program without triggering additional or compensating tax, interest, or penalty.

The bill eliminates the requirement that the land owner provide the county assessor with a two-year notice before withdrawing land from either the open space, farm and agricultural, or timber land program after the initial 10 year participation period.

The exception from the requirement to pay additional or compensating tax, interest, and applicable penalty under the current use programs if the land is sold within two years of the owner's death is expanded to allow any lands to be eligible for this exception, and not just lands enrolled continuously in a current use program since 1993.

If the owner of land within the open space, farm and agricultural, or timber land program notifies the county assessor of an intent to withdraw the land after the initial 10 year period, the owner must also notify the assessor within 60 days of the change in use.

The application requirements for reclassification of lands under the timber land program are removed.

Appropriation: None.

Fiscal Note: Requested on January 22, 2007.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2007.